These circumstances offer compelling evidence that the Commission's proposal to protect the first two licensees in a market is likely to result in the provision of LMS services by only one and maybe no carrier in the more than 100 markets where MobileVision is currently licensed. The Commission has recognized as one of its objectives the full utilization of available spectrum. A policy which would result in 8 MHz of spectrum lying fallow for at least five years does not result in the efficient utilization of spectrum and is not in the public interest.

In addition, the Commission has repeatedly reiterated its recognition that competitive service is in the public interest. SBMS and other entities are willing to provide LMS services in markets throughout the country. The public should not be denied the benefit of competition for any period of time, much less five years, when technology exists to allow multiple providers of LMS services throughout the country. Not only would a set-aside or waiting period be anticompetitive, but it would deny the American public the enhancements and advantages which are available from new and advancing technologies. If existing LMS providers are not capable of operating within the current environment and other technologies are available which can operate in that environment, then the public should not be denied the benefit of those technologies. In order to implement its innovative allocation scheme, SBMS proposes to allow existing 8 MHz licensees, (even those whose status is unclear at best) a one-year grace period to

bring their constructed facilities into compliance with the final LMS rules.[38]

3. Co-channel Licensees Can and Should Coordinate to Avoid Interference.

The Commission correctly points out that it may be necessary for co-channel licensees to coordinate among themselves to enable

suggests that the Commission adopt a licensing system which has proved beneficial to the growth of the cellular industry by offering licenses within Metropolitan Statistical Areas (MSAs) and Rural Service Area (RSA) boundaries established for that industry. The Commission could then issue at least four licenses of 4 MHz of bandwidth each for channelized operation of LMS services within a specific MSA or RSA. Adjacent co-channel licensees would be required to coordinate their operations at the market boundaries.

In the NPRM, the Commission suggests retaining the present eight month construction period.[41] SBMS suggests that 12 months would be a more realistic period, particularly in large urban markets where multiple sites are involved. This would lessen the need to process extension requests and would afford carriers a more reasonable period in which to construct their systems.

G. Operation of Part 15 Devices Should Be Limited to Reduce Potential Interference with LMS Services.

The Commission correctly notes that interference to LMS systems from Part 15 users, amateur operators and government radio location fixed and mobile stations is a necessary consequence of a shared environment.[42] Those users currently operate on a secondary basis to LMS services.[43] SBMS suggests that either such devices be re-allocated to operate in bands outside the LMS bands

---

licensees indefinitely within the 110 mile radius after the five years have expired.

[41] NPRM at para. 26.

[42] NPRM at para. 24.

[43] Id.

or as an alternative, that the permitted transmit power of Part 15 devices be reduced to 0.1 watt and their permitted range of operation be limited and moved to the band edges. Amateur operators should (1) be removed from the band, (2) be permitted to transmit at significantly reduced power, or (3) their transmit power should be reduced and their operations moved to the band edges.

IV. THE COMMISSION'S PROPOSED TECHNICAL REQUIREMENTS SHOULD BE MODIFIED.

A. Existing Operators Should Be Given A Grace-Period To Conform Licensed Equipment To Any New Type Acceptance Requirements.

SBMS supports type acceptance of equipment for all LMS systems.[44] Type acceptance of equipment will promote the Commission's goals of eliminating or limiting interference from equipment utilized in the provision of LMS services. If type acceptance rules are implemented, existing licensees who currently operate without type accepted equipment should be given an opportunity to convert to type accepted equipment or otherwise obtain type acceptance of their existing equipment from the

B. SBMS Supports Standard Emission And Power Proposals, But The Emission Profiles Must Be Consistent With Those Used by Part 15 Operators.

SBMS supports the Commission's proposal that no restrictions be placed on the type of emissions that are authorized for LMS operations in the 902 to 928 MHz band and supports the Commission's frequency accuracy requirements and the maximum peak Effective Radiated Power (ERP) of 300 watts.[45]

SBMS suggests, however, that the emissions profile set out in the NPRM be modified.[46] As currently described, the Commission's emission profile proposal to limit out of band emissions to at least 55 + 10 log(P) dB is too restrictive on pulsed wide band LMS systems. LMS system transmissions tend to be in short infrequent bursts over a wide bandwidth which are randomly distributed over a wide geographic area. Therefore, the average transmitted power of these systems and the geographic concentration of that power are low when compared to more persistent emission sources such as those regulated under Part 15. Low level, side lobe energy from an LMS spectrum signal should have little or no effect on other narrow band and wide band LMS system providers. Accordingly, the Commission should adopt a profile for out-of-band emissions which requires the first side lobe to be at least 20 dB below the main lobe of the transmitted signal with each following side lobe progressively reduced by 10 dB as follows:

---

[45] NPRM at para. 30.

[46] Id.

Main lobe peak power:	P
First side lobe peak power:	P(in dB) - 20 dB
Second side lobe peak power:	P(in dB) - 30 dB
Third side lobe peak power:	P(in dB) - 40 dB

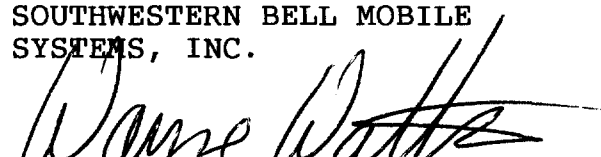
Finally, SBMS believes that LMS systems should not be required to evenly distribute their power throughout their authorized band. This is too restrictive as a technical requirement and may prohibit effective frequency management and coordination.

V. CONCLUSION

SBMS supports the establishment of permanent rules for the operation of LMS systems which would encourage competition and innovation in the use of this valuable spectrum. SBMS encourages the Commission to license multiple wide band LMS providers by allocating at least four exclusive 4 MHz wide band assignments in each market. SBMS strongly disagrees with any proposal to protect existing LMS licensees by imposing set-asides or waiting periods of any length before more than two wide band LMS carriers are licensed in any market. The Commission is to be commended for seeking to add additional competition in the provision of LMS services. The Commission should go forward and aggressively ensure that this competition occurs as quickly as possible by issuing multiple licenses in specific geographic markets.

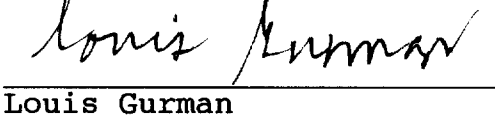
Respectfully submitted,

SOUTHWESTERN BELL MOBILE SYSTEMS, INC.



Wayne Watts
V.P.-General Attorney
17330 Preston Road, Suite 100A
Dallas, Texas 75252

GURMAN, KURTIS, BLASK & FREEDMAN



Louis Gurman
Robert L. Hoggarth
1400 Sixteenth Street, N.W.
Washington, D.C. 20036

June 29, 1993

Exhibit A

Alternative Allocation—Each Wide Band System Has Forward Link Within Its Own Channel

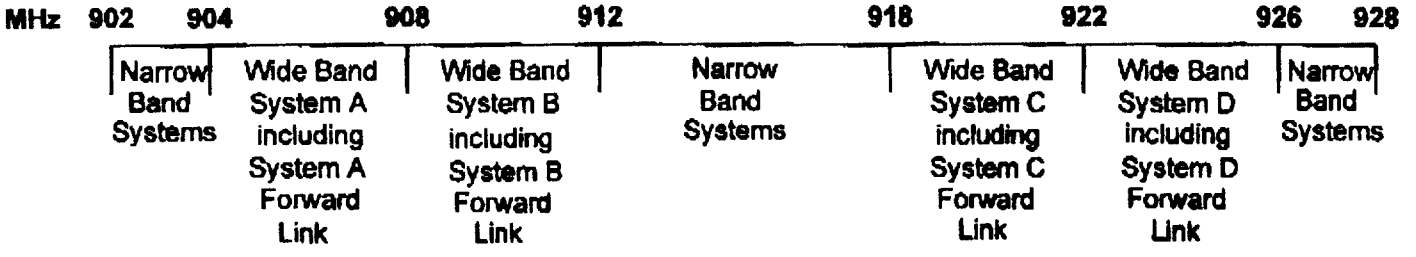


Exhibit B

GURMAN, KURTIS, BLASK & FREEDMAN

CHARTERED

SUITE 500
1400 SIXTEENTH STREET, N.W.
WASHINGTON, D.C. 20036

(202) 328-8200
TELECOPIER: (202) 462-1784

LOUIS GURMAN
MICHAEL K. KURTIS
JEROME K. BLASK
WILLIAM D. FREEDMAN
DOANE F. KIECHEL
ROBERT L. HOGGARTH
ANDREA S. MIANO
COLEEN M. EGAN*

* NOT ADMITTED IN D.C.

RICHARD M. TETTELBAUM
OF COUNSEL

HERBERT C. HARRIS
LEONARD M. GARAVALIA
FRANK A. RONDINELLI
JAMES C. EGYUD
BRENT R. SHIREY

CONSULTING ENGINEERS

April 23, 1993

BY HAND

Ralph A. Haller, Chief
Private Radio Bureau
Federal Communications Commission
2025 M Street, N.W.
Washington, D.C. 20554

Re: Southwestern Bell Mobile Systems, Inc.
Application For Automatic Vehicle
Monitoring System in Chicago, Illinois
FCC File Nos. 346790, 346791

Dear Mr. Haller:

This letter, submitted on behalf of Southwestern Bell Mobile Systems, Inc. ("SBMS"), is intended to alert the Commission to recently discovered facts which are germane to processing the referenced application to establish an automatic vehicle monitoring ("AVM") system in Chicago, Illinois.

On February 18, 1993, MobileVision, a general partnership of METS, Inc. ("METS") and Ameritech Mobile Data, Inc. ("AMDI") filed a Petition to Deny SBMS' application (filed December 23, 1992) alleging that grant of SBMS' application would effectively revoke MobileVision's wide-band AVM license in Chicago, Illinois because of expected harmful interference. MobileVision unequivocally stated in its Petition that:

1. "MobileVision has constructed a robust, flexible AVM system in reliance upon the Commission's existing rules." Petition at 1,

2. "METS . . . has invested $20 million . . . to develop the most accurate, flexible and robust system possible within the confines of 8 MHz." Petition at 7,

3. "MobileVision is taking full advantage of its 8 MHz to achieve maximum flexibility and provide a wide range of quality, efficient services to the public." Petition at 8, and

4. "[T]he Commission should not penalize METS for fully developing a robust [AVM] system . . ." Petition at 9.

The foregoing representations were supported by the sworn affidavit of Adam Boris, Director of Network Implementation for MobileVision, who stated that he was "responsible for overseeing the buildout of MobileVision's wideband pulse ranging automatic vehicle monitoring systems[,]" that he "reviewed MobileVision's Petition . . .," and that "[a]ll of the information contained therein [was] true and correct to the best of [his] knowledge and belief."

Mr. Boris' sworn representations are directly contradicted by representations made in federal and state court proceedings initiated by MobileVision's partners against each other literally within weeks of the filing of MobileVision's Petition. The partners' complaints, copies of which are enclosed as Appendices A (AMDI) and B (METS), respectively, contain stunning admissions against interest directly contradicting the representations in the Petition. In pertinent part, the parties respectively claim as follows:

1. No MobileVision AVM system has been constructed in Chicago.[1]

---

[1] In a Complaint filed on February 26, 1993, by AMDI and AMCI Partnership Holdings, Inc. against METS, et. al. in the United States District Court for the Northern District of Illinois Eastern Division (No. 93C 1261)("AMDI Complaint"), AMDI claims that METS has failed to construct and bring the Chicago network into operation. AMDI Complaint at para. 31. In a Verified Complaint For Breach of Fiduciary Duty and Constructive Fraud, Equitable Relief and Damages filed on March 22, 1993, by METS and AVM Limited Partnership d.b.a. MobileVision against AMDI, Ameritech Mobile Communications, Inc., et. al. in the Circuit Court of Cook County, Illinois, County Department Chancery Division (No. 93 CH 2649) ("METS Complaint"), METS seeks to enjoin the defendants to comply with their partnership obligations, including construction of the infrastructure for a network in Chicago. METS Complaint at para. 2. METS claims that the Chicago system has not been built out (Id. at par. 36), and that there is no effort being made through the construction of towers or other facilities in any of MobileVision's principal markets. Id. at para. 40.

2. MobileVision has abandoned efforts to construct an AVM system in Chicago and AMCI has terminated all funding nationwide.[2]

3. The existing MobileVision system design is flawed and development of a viable system design is more than a year from completion.[3]

4. There are serious questions whether the MobileVision system in Chicago or more than 80 other markets will ever be developed.[4]

---

[2] AMDI claims that MobileVision's partners decided during October of 1992, nearly four months prior to the filing of MobileVision's Petition to Deny, to develop and complete a working AVM prototype in Boca Raton, Florida instead of Chicago. AMDI

5. Control and management of MobileVision appears to have changed without authorization by the Commission.[5]

Some attachments to the complaints submitted herein are quite voluminous. To the extent the Commission requires complete copies of any of these materials, SBMS will provide them.

In view of the disturbing evidence that MobileVision has misrepresented decisionally significant facts to the Commission concerning the construction and operational status of its AVM system in Chicago and the reliability of its own AVM technology, SBMS respectfully requests expedited resolution of the outstanding Petition to Deny either by dismissing the Petition as moot or by instructing MobileVision to withdraw its Petition immediately. The Commission should also immediately investigate whether MobileVision, which has protested the AVM applications of a number of parties for markets around the country, is warehousing AVM spectrum and filing petitions in bad faith.

Should any questions arise with respect to this matter, please contact this office directly.

Sincerely,

Louis Gurman

Louis Gurman
Robert L. Hoggarth

Enclosures
cc: Donna Searcy
Mitchell Hertz, Esq. (counsel to MobileVision) (By Hand)
Kent Nakamura, Esq. (FCC - Washington, D.C.) (By Hand)
Terry Fishel (FCC - Gettysburg, Pennsylvania) (Federal Express)

MobileVision director and AMDI representative John Rooney as stating at that meeting that AMDI is "getting out of this business." Id. at para. 50.

[5] METS contends that AMDI and its parent company, through the directors they control, have usurped the power to direct and control the partnership from the Board of Directors and have "improperly assumed day-to-day control of MobileVision." METS Complaint at par. 26.